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THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN

Report of the Secretary-General on the situation of women and girls in Afghanistan, submitted in accordance with Sub-Commission resolution 1998/17

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Introduction

1. In its resolution 1998/17, the Sub-Commission on Prevention of Discrimination and Protection of Minorities decided to continue consideration of the question of the situation of women in Afghanistan at its fifty-first session under the same agenda item and requested the Secretary-General to provide the Sub-Commission with all relevant information on the question available within the United Nations system.

2. The data and information used in the present report have been provided by UNOCHA, UNHCR, the Division for the Advancement of Women, UNICEF and other agencies and NGOs in Afghanistan, Islamabad and Peshawar. In the preparation of the report, account has also been taken of recent reports of the Special Rapporteur on the situation of human rights in Afghanistan.

3. All international staff left Afghanistan in August 1998 until March 1999 when it was decided to return international staff gradually to the country, with certain restrirtions. The monitoring and assessment of the situation of women and girls during that period was severely affected by the international staff's absence.

I. HUMAN RIGHTS OF WOMEN AND GIRLS IN AFGHANISTAN

4. Afghanistan is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Geneva Convention relative to the Protection of Civilian Persons in Time of War. Nevertheless, women are unable to enjoy the most basic rights, particularly civil and political rights, the right to education, employment, health, movement and personal security.

5. During 20 years of conflict, women have been killed indiscriminately in fighting between opposing sides and thousands of women and children have been displaced or forced to flee the country as a result of systematic human rights abuses. In addition, women have been abducted and raped by members of the various warring factions, often being treated as the spoils of war.

6. The Commission on Human Rights, in its resolution 1999/9 on the situation of human rights in Afghanistan, adopted on 23 April 1999, expressed deep concern about the severe situation of women and girls in Afghanistan, in particular in all areas under the control of the Taliban movement, as documented by continued and substantiated reports of grave violations of the human rights of women and girls, including all forms of discrimination against them, such as the denial of access to health care, to all levels and types of education, to employment outside the home and, in repeated instances, to humanitarian aid, as well as restrictions upon their freedom of movement. Further, the Commission strongly condemned the continuing grave violations of the human rights of women and girls, including all forms of discrimination against them, in all areas of Afghanistan, particularly in areas under the control of the Taliban.

7. In this context, the Commission decided to extend the mandate of the Special Rapporteur on the situation of human rights in Afghanistan for another year, and requested the Special Rapporteur to report on the situation of human rights in Afghanistan to the General Assembly at its fifty-fourth session and to the Commission on Human Rights at its fifty-sixth session.

8. The Commission on Human Rights first appointed a special rapporteur to examine the human rights situation in Afghanistan in 1984 1/ and has regularly renewed the mandate since that date.

9. The Special Rapporteur reported 2/ that, following the capture of Kabul in 1996, the Taliban imposed restrictions on women in Kabul, Herat, Kandahar and other areas they controlled. Taliban policies have been communicated through edicts approved by its ruling shura (traditional consultative body) and enforced to a large extent by the Ministry for the Prevention of Vice and the Promotion of Virtue. Tens of thousands of women remain restricted to their homes under Taliban edicts banning them from seeking employment, education or leaving home unaccompanied by a close male relative. Other measures restricting women, and which may have repercussions for their health, include the closure of women's hammams (public baths). Women are also barred from the streets for certain periods during the fasting month of Ramadan.

10. Many of the edicts have been interpreted differently by different representatives of the Taliban authorities, and practised with varying degrees of rigour in different parts of the country. It is reported that in certain areas restrictions have been enforced through the use of cruel, inhuman and degrading punishment and ill treatment, including the beating of women by Taliban guards in public places.

11. The impact of the restrictions has been felt most profoundly in urban areas where women had greater access to education, employment opportunities and health facilities and had enjoyed freedoms which were unthinkable for rural women. Women used to work in all sectors of employment, including in scientific, academic and technical fields, as well as in government positions, and were therefore greatly affected by the Taliban edicts curtailing their freedom. However, it is estimated that more than 75 per cent of the population live in rural areas where confrontations with Taliban values have been less serious. 3/

12. The Special Adviser to the Secretary-General on Gender Issues and Advancement of Women, in her 1997 mission report on Afghanistan, 4/ emphasized that the discrimination, restrictions on freedom of movement, segregated or prohibited workplaces and exclusion from education which inhibit women and girls' full participation in the life of their country are much more harmful than a restrictive dress code (imposition of the burqa traditional dress code on women who were no longer wearing it, mainly in the urban areas). The report further states that the situation of women and girls in Afghanistan is defined by two primary factors, deprivation caused by the continuing war and policies directed towards the removal of women from public life, and two secondary factors, traditional customs that often reinforce their secondary status and assistance programming that fails to mainstream women.

13. It is argued that the Taliban have established a degree of security in the areas under their control. On the other hand, they have imposed severe repressive measures, especially with regard to women. Violations of the human rights of women are not exclusive to the areas controlled by the Taliban. Although little information is available about areas controlled by the Northern Alliance (United Front), it would appear that women are at risk of being raped by armed groups.

14. In his latest report 5/ to the Commission on Human Rights, the Special Rapporteur reported that, during his visit to Kabul, he had observed some relaxation of the restrictions imposed on the rights of women, as a few women doctors and nurses were seen at work in a hospital attending to female patients. A more flexible attitude had been expressed by Taliban representatives with regard to the access of girls to education and a recent edict had granted exemption to needy widows from the restriction against the employment of women in urban areas. It had been urged that it was imperative to maintain and enhance humanitarian assistance not only to meet basic human needs and thus to uphold the right to life of millions of suffering Afghans, but also to provide incentives for ending or significantly relaxing the existing restrictions which were violative of human rights. Moreover, the Special Rapporteur stated that some of the main issues of concern in the country were related to the denial of the right to education of girls and gender discrimination in general. The improvement of the overall human rights situation would require the emergence of a framework for building peace through an inclusive participatory process involving continuing consultations with all segments of the Afghan people, aimed at establishing a broad based, multi-ethnic and fully representative government.

II. PRINCIPAL AREAS OF CONCERN

15. The Commission on Human Rights, in its resolution 1999/9, expressed its deep concern about the severe situation of women and girls in Afghanistan, in particular in regard to the most grave violations of their human rights and the denial of access to health care, to education and to employment.

A. Health

16. The Special Rapporteur on the situation of human rights in Afghanistan reported 6/ that directives were issued on 6 September 1997 by the Taliban Ministry of Public Health concerning the removal of female staff from Kabul's medical facilities and the closure of services to women in all of the city's hospitals, with the exception of a few that would be allowed to treat emergency cases. Medical services for women were to be concentrated in a single hospital that was barely operational. The female population were reportedly suffering from post-traumatic stress disorders, and the suicide rate among women was said to be on the rise. 7/ As a result of continued international pressure, official Taliban restrictions on access to health care, imposed in 1997, have since been lifted.

17. Poverty, distant or poor services, low literacy rates, lack of appreciation of health needs and lack of female health care personnel are all factors which have further restricted access to health care for Afghan women.

18. According to information received, a Health Commission was constituted in Kabul in 1998 under the Ministry of Public Health, with membership drawn from NGOs, United Nations agencies and local health authorities, to monitor the progress of the decisions and agreement reached between the international community and local health authorities over the issue of women's access to health facilities in Kabul. The hospitals in the city are reportedly now treating and admitting women and men on an equal basis, except for one hospital, where funds are awaited to construct a separate entrance and access for women patients.

19. The World Health Organization (WHO) is conducting training courses for Afghan female health personnel, as well as in-service training for existing female health workers. Women's health needs are considered a priority and plans are being made to alleviate Afghan women's suffering by reducing the mortality and morbidity rates among them, especially women of child-bearing age (14-45), who are the most vulnerable group.

20. In partnership with a number of organizations, the United Nations Children's Fund (UNICEF) is making an effort to promote a community-based maternal health programme in Afghanistan. The programme includes: provision of quality health care and nutrition to mothers and infants; provision of essential drugs and supplies; training of village health workers and community midwives; referral services and distribution of simple "clean delivery kits". 8/

21. According to UNICEF, 9/ vaccination coverage rates of children are one of the few indicators in Afghanistan in which there is no significant gender gap. This is a consequence of the positive values of Afghan society with regard to the well-being of children, as well as the concerted efforts of all partners to raise awareness on the need for all children to be vaccinated. The UNICEF report states that one of the benefits of focusing on immunization as an entry point to the realization of the rights of Afghan children has been the establishment and strengthening of a regional and provincial expanded programme on immunization management teams, and mobilization of male and female health worker vaccinators.

22. The results of returnee monitoring by the Office of the United Nations High Commissioner for Refugees (UNHCR) indicate that only 54 per cent of returnee families have access to health services. UNHCR continues to cooperate closely with WHO and international non-governmental organizations in the health sector to provide basic health services in areas with large numbers of returnees. 10/

B. Education

23. In his 1997 report to the General Assembly, 11/ the Special Rapporteur on the situation of human rights in Afghanistan reported that female education was banned in all parts of the country under Taliban control and that the general trend in education was described as a shift from regular schools to home schools since home schools are more or less accepted. Even in cases when it is allowed, negotiations concerning education reportedly have to be carried out on a case-by-case basis. It was reported, however, that girls were allowed to attend primary school in certain parts of the country.

24. The Special Rapporteur noted that the Taliban Acting Minister of Higher and Vocational Education had stated that separate education for women would come in the future, if the authorities had sufficient resources. The Acting Minister had indicated that women's attendance was conditional on segregation and that they would only be allowed to study medicine, education and moral and other social subjects.

25. Although school attendance of girls in the central and southern parts of Afghanistan has always been low, the Special Rapporteur reported that it was now non-existent. This is also the case in the western part of the country and in Kabul, where girls are said to have constituted 40 per cent of all schoolchildren (30 per cent in Herat). The Special Rapporteur was informed in 1997 that a number of girls were allowed to attend school in the camps for internally displaced persons and returnees in Herat. Female education continued in the northern part of Afghanistan, then under the control of the Northern Alliance, where girls accounted for 25 per cent of pupils.

26. The Special Rapporteur was informed by scholars that it was a religious obligation in Islam to acquire education and that deprivation of education constituted a disobedience of Islamic principles. The view was expressed that the motivation on the part of the Taliban for banning female education was neither legal, financial nor based on security, but was probably politically motivated.

27. According to UNICEF, net primary school attendance between 1992 and 1997 was 36 per cent among boys and only 11 per cent among girls. The adult literacy rate is 47 per cent for men and 15 per cent for women. Although there has always been a gender gap in education in Afghanistan, in the opinion of UNICEF Executive Director Carol Bellamy, it has been exacerbated and institutionalized as a result of edicts issued by the Taliban authorities banning girls from attending formal schools and female teachers from working, in contravention of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

28. The United Nations has been in dialogue with the Taliban authorities on the issue of gender equity in education. This advocacy and negotiation process culminated in the signing in May 1998 of a memorandum of understanding between the United Nations and the Taliban, in which it is stated that "men and women shall have the right to education".

29. In his 1998 report, 12/ the Special Rapporteur on Afghanistan noted differences in discriminatory practices in the different regions. In regard to education, for example, in one district in Kandahar, all families were instructed to send both their male and female children to school up to the age of 12, whereas the Special Rapporteur was informed that there was absolutely no education, not even in Koranic schools, for girls in Jalalabad, Nangarhar province.

30. The Special Rapporteur reported that the head of the judiciary in Nangarhar province indicated that it was important to impose restrictions on education for girls in the city, even though there were numerous schools in the villages. The authorities were reportedly compelled to implement the restrictions in the city because of the legacy of the previous Government's leniency.

31. According to UNHCR reports, education is prohibited to girls in most areas of the country; and surveys among returnees show that 76 per cent of primary school-age children of returning families do not attend school. However, the Taliban authorities have allowed support of home based schools for girls in Kandahar, parallel to improved formal education for boys. 13/

32. It is estimated 14/ that there were approximately 4.4 million children of primary school age in 1998 and of these children roughly 250,000 attended externally supported schools. In addition, around 750,000 were in government schools. The rest, in round numbers 3.4 million children - 2 million girls and 1.4 million boys - never attended school. There are very few secondary schools, while education at university level is extremely rare.

33. Although it is reported that in many rural areas the traditional reluctance with regard to girls' education has changed, it still meets with considerable resistance today, not only traditional but also political, in the form of policies and practices of the Taliban movement. In some areas, mainly in the cities, girls are not allowed to attend school on any condition, while in others, mainly the rural areas, they do attend school. 15/

34. The total destruction of the educational infrastructure has had an effect on girls' schooling in most parts of the country, including areas where the Taliban's ideology is less restrictive. The "brain drain" from Afghanistan, through immigration to neighbouring countries, has greatly depleted the number of available teachers.

C. Employment

35. Following the capture of Kabul in 1996, the Taliban imposed numerous restrictions on women, including an edict banning them from seeking employment.

36. In keeping with this policy, when the Taliban entered Mazar-i-Sharif on 24 May 1997, they immediately announced that women were banned from working and receiving education. Women were reportedly also not allowed to leave the city. After the departure of the Taliban from the city in June 1997, foreign aid agencies in Mazar-i-Sharif were instructed by the Department of Foreign Affairs of the National Islamic Movement of Afghanistan to stop employing female Afghan staff. The instructions were reported to have been issued by the Jehadi (Holy War) Shura (Council) in the northern part of Afghanistan (then not under Taliban control) which is headed by the Governor of Balkh province. This entailed a reduction in the activities of international aid agencies. Subsequently, it was reported that Afghan women would be allowed to work only in agencies headed by women or to be employed as nurses and doctors in hospitals. It is believed that only 20 pe. cent of the female workforce in the health sector is currently employed.

37. On 24 May 1997, members of the Taliban religious police in Kabul stopped a minibus carrying Afghan women employees of the non-governmental organization CARE International. The women were taken out of the vehicle and beaten, in spite of the fact that their organization had obtained written permission from the authorities allowing them to work. On 1 June 1997, the then Deputy Director of the Department for the Preservation of Virtue and Prevention of

Vice of the Taliban authorities, Mullah Qalamuddin, apologized to CARE International and gave written authorization for three of its projects employing women, including an emergency feeding programme for households in Kabul headed by widows.

38. Subsequently, on 18 July 1998, the President of the Department for the Preservation of Virtue and the Prevention of Vice addressed a letter to the Kabul office of the Saudi Coordinating Body for Afghan Relief containing instructions concerning the behaviour of staff of non-governmental organizations and of hospitals. The instructions, to be observed by all international agencies and Afghan non-governmental organizations, stipulated, inter alia, that the Shariah (Islamic law) did not allow the employment of women in governmental departments or international agencies and that women should not leave their residences. Women would be allowed to work only in the health sector; agencies were not to employ Afghan women in any other sector. Assistance to widows and needy women was to be provided only through their male blood relatives, without the employment of female project monitors. Afghan women were not allowed to travel in a vehicle with expatriates.

39. Afghan women had been working with a number of aid agencies, including the International Committee of the Red Cross, CARE International and the World Food Programme. On 24 April 1999, the Taliban signed their first protocol officially allowing Afghan women to work with a foreign aid organization. The protocol between the Swiss based organization Terre des Hommes and the Taliban will allow up to 30 local women to work in a child aid programme around Afghanistan. It followed about 18 months of negotiations. The protocol was signed by Health Minister Mullah Mohammad Abbas Akhund and will enable Terre des Hommes to begin its programme aimed at reducing child mortality rates and improving infant health care. Other foreign aid groups have been attempting to reach a similar formal agreement with the Taliban, so far without success.

40. To conclude, a report entitled "The right to livelihoods" 16/ states that there can be little doubt that restrictions on where and how women are able to work have accelerated the cycle of impoverishment among many urban families, especially those without able bodied male earners. The destitution that is evident among a growing proportion of urban families, with a consequent increase in public begging, is the culmination of years of material and human loss, coupled with growing levels of morbidity, which has affected the ability of women and men to provide for themselves and their children.

III. UNITED NATIONS PROGRAMMES AND STRATEGIES

41. At the fifth meeting of the Afghanistan Support Group, held on 21 and 22 June 1998 in Stockholm, the participants expressed the view that the needs of the Afghan people justified a sustained commitment to humanitarian assistance, including assistance in addressing the human rights deficit of children and women, in particular female headed households. The meeting addressed the approach to rights based programming which aims to advance human rights through assistance activities. The participants welcomed the many examples of constructive local level cooperation and commitment and emphasized the opportunities for constructive engagement at the community level. The

positive long-term effects of supporting primary education, access to vaccination, the right to a livelihood and gender equity were noted as priority areas within rights-based programming.

43. The United Nations Coordinator's office will follow a gender action plan during 1999 which will include engaging in a dialogue with civil society, technical departments and religious and political leaders with the aim of identifying opportunities for gender-related interventions inside Afghanistan. This engagement should lead to the identification and utilization of a number of entry points for increasing women's mobility and their access to social services and alleviating the poverty of women-headed families through income-generating employment.

44. An inter-agency gender mission, conducted in November 1997, 12/ undertook an examination of the condition of women in Afghanistan, the contexts within which external assistance is conceived and delivered, the ways that the international community can address gender concerns in the delivery of aid, and indicators that can be used to ensure the appropriate monitoring of assistance activities.

45. Subsequently, a new Gender Coordinating Unit (GCU) has been set up this year within the PEACE Initiative Programme (membership of which will be extended to all United Nations agencies in the near future) of the United Nations Coordinator's office working out of Pakistan. It aims to formulate gender policy jointly with other agencies and to implement it together with the recommendations of the 1997 inter-agency gender mission. GCU will formulate guidelines for gender mainstreaming, setting realistic objectives for gender activities, working with partners on pilot projects and establishing minimum standards for best practice. Besides providing ongoing training for unit members, GCU has obtained funding for training United Nations staff on gender sensitization and mainstreaming and on human rights and gender equity issues in delivering development assistance in the Afghanistan context.

46. The World Bank has signed an agreement with UNDP Afghanistan for an Afghanistan watching brief. The brief has three subcomponents, the third of which is a set of pilot programmes to support Afghan women's NGOs based in Pakistan.

47. Through its presence and monitoring, UNHCR ensures that protection-related issues affecting returnees are addressed if and as they arise. Female returnees may be subject to restrictive traditions, with the consequent effects on their health, security and personal freedom.

48. The United Nations Executive Committee on Humanitarian Affairs (ECHA) has promulgated guidelines (labelled the principle-centred approach to gender issues) that include recommendations on capacity-building. The assistance community has had to face the possibility of withdrawing from Afghanistan, not only because security conditions are difficult, but also because it has found it impossible to have an impact without sustaining debilitating cost to its principles and practices. The principle-centred approach to gender emerged

from a two-year debate with the United Nations and the larger assistance community about human rights in Afghanistan and the most appropriate ways to respond to restrictions on the activities of women and girls.

IV. CONCLUSIONS AND RECOMMENDATIONS

48. The situation of women and girls in Afghanistan is extremely serious, owing to the unchecked policy of gender discrimination in the country, and requires close monitoring by the Special Rapporteur on the situation of human rights in Afghanistan, the Special Rapporteur on violence against women, other extra-conventional United Nations mechanisms and the international community.

49. Many of the Taliban edicts have been represented and interpreted differently by different representatives of the Taliban authorities, and practised with varying degrees of rigour in different parts of the country. While there have been encouraging moves to relax the restrictions imposed on the rights of women in certain areas, including an edict granting exemption to needy widows from the restrictions on the employment of women in urban areas and the issue of a number of permits allowing Afghan women to work with a foreign aid organization, this nevertheless only addresses limited aspects of the overall problem.

50. The United Nations aim to promote the human rights of women and girls through constructive local level cooperation and commitment has been reasonably successful. Nevertheless, opportunities for constructive engagement at the community level through community level projects should be pursued.

51. All armed groups in Afghanistan must respect fundamental human rights, particularly those of women, in accordance with international human rights standards and humanitarian law.

52. All Afghan parties and in particular the Taliban, should bring to an end without delay all violations of the human rights of women and girls and take urgent measures to ensure: the repeal of all legislative and other measures which discriminate against women; the effective participation of women in civil, cultural, economic, political and social life throughout the country; respect for the right of women to work, and reintegration of women in their employment; the right of women and girls to education without discrimination; the reopening of schools and the admission of women and girls to all levels of education; to ensure respect for women's right to security of person and that those responsible for physical attacks on women are brought to justice; respect for women's freedom of movement and effective and equal access to facilities necessary to protect their right to the highest attainable standard of physical and mental health.

53. All Afghan parties should fulfil their obligations and commitments regarding the safety of all personnel of diplomatic missions, the United Nations and other international organizations, and of their premises in Afghanistan, and to cooperate, fully and without discrimination on the grounds of gender, nationality or religion, with the United Nations and

Notes

1/ Economic and Social Council resolution 1984/37 of 24 May 1984. Mr. Felix Ermacora served as Special Rapporteur for Afghanistan from 1984 until his death in 1995. Mr. Choong Hyun Paik was appointed in April 1995 and his mandate was renewed in 1996 and 1997, he resigned towards the end of 1998. Mr. Kamal Hossain, the present Special Rapporteur, was appointed by the Commission on Human Rights in December 1998.

2/ See E/CN.4/1997/59.

3/ Nancy Hatch Dupree, "Social challenges past and present", paper prepared for the Swedish Committee of Afghanistan Seminar entitled "Afghanistan, aid and the Taliban", Stockholm, 24 February 1999.

4/ Inter-agency gender mission to Afghanistan, 12-24 November 1997, led by Ms. Angela E.V. King, the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women.

5/ See E/CN.4/1999/43, para. 21.

6/ See E/CN.4/1998/71.

7/ See "The Taliban's war on women: a health and human rights crisis", Physicians for Human Rights, August 1998.

8/ Each kit will contain a piece of soap, a razor blade, tape for tying the infant's umbilical cord, a plastic sheet and a pictorial instruction leaflet.

9/ UNICEF, "Right to health: vaccination the right of all Afghan children", paper prepared for the Afghanistan Support Group meeting, Stockholm, 21-22 June 1999.

10/ UNHCR, 1999 global appeal for the repatriation and reintegration of Afghan refugees.

11/ See A/52/493, annex.

12/ See E/CN.4/1998/71.

13/ See A/52/493, annex.

14/ Ellen Kaimthout, UNICEF/Afghanistan, "Education in Afghanistan: the current situation".

15/ Anders Fange, Swedish Committee for Afghanistan, "The state of education in Afghanistan", Peshawar, 7 June 1999, paper prepared for the Afghanistan Support Group meeting, Stockholm, 21-22 June 1999.

16/ "The right to livelihoods", Kabul, 10 June 1999, paper prepared for the Afghanistan Support Group meeting, Stockholm, 21-22 June 1999.

17/ Inter-agency gender mission to Afghanistan, 12-24 November 1997, led by Ms. Angela E.V. King, Special Adviser to the Secretary-General on Gender.